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Report of the Working Group on Arbitrary Detention

Addendum

Mission to New Zealand*

Summary

The Working Group on Arbitrary Detention conducted an official country visit to New Zealand from 24 March to 7 April 2014, following an invitation from the Government. The delegation consisted of Mads Andenas (Norway), Chair-Rapporteur of the Working Group, and Roberto Garretón (Chile), a member of the Working Group. The Working Group visited the cities of Wellington, Auckland, New Plymouth (Taranaki region) and Christchurch (Canterbury region). In all the cities that it visited, the Working Group met with officials of the various ministries and of local authorities, and with first-instance judges and prosecutors.

The Working Group visited places where persons are deprived of their liberty in all of the above-mentioned cities. The appendix to the present report lists the detention facilities that the Working Group visited. The Government facilitated the visits to the places of detention, imposing no restrictions, and allowed the Working Group to conduct private and confidential interviews with detainees of its choice.

The Working Group notes that the country's legal framework regarding the right not to be arbitrarily deprived of one's liberty is well developed and is generally consistent with international human rights law and standards. The New Zealand Bill of Rights Act 1990 guarantees the right not to be arbitrarily arrested or detained. It sets out in detail the rights of persons arrested or detained, which are in conformity with article 9

* The summary of the present report is circulated in all official languages. The report itself, which is contained in the annex to the summary, is circulated in the language of submission only.

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of the International Covenant on Civil and Political Rights.

Legal requirements are complied with and arrested persons are informed of the grounds for their arrest and their legal rights. In most cases, arrested persons are immediately brought before a judge. During its visit, the Working Group observed police officers informing arrested persons of the grounds for their arrest and their legal rights immediately after their apprehension, in accordance with the New Zealand Bill of Rights Act 1990.

Detainees have the right to initiate habeas corpus proceedings to challenge the lawfulness of their detention, and in the case of unlawful detention, victims have the right to claim and obtain compensation. All prison and police officers have received suicide awareness training. The courts pay for all the interpretation and translations that they need. There are legislative provisions for the use of restorative justice at various stages in the criminal justice system.

The report focuses on preventive detention in the form of an indeterminate-length jail sentence for offenders who pose a "significant and ongoing risk" to public safety. This is considered a last resort for violent offenders and sex offenders. About 280 inmates were serving a preventive sentence at the time of the Working Group's visit. Public protection orders allow the authorities to recall a person to prison once his sentence is finished if he is at high risk of reoffending. Such orders apply to a very small number of people. Extended supervision orders can be issued by a court if a child sex offender is deemed still to present a high risk of reoffending at the end of his sentence. During the Working Group's visit, extended supervision orders were in force in respect of about 225 ex-prisoners.

According to the Working Group, preventive detention must be justified by compelling reasons, and regular periodic reviews by an independent body must be assured in order to determine whether the detention continues to be justified. The treatment of prisoners held in preventive detention must be distinct from the treatment of convicted prisoners serving a punitive sentence and must be aimed at the detainees' rehabilitation and reintegration into society.

It is noted in the report that New Zealand is imprisoning 183 persons per 100,000 inhabitants and that the country has a high rate of reoffending. People of Maori descent make up 51.4 per cent of the prison population, and 65 per cent of the female prison population, while Maori comprise approximately 15 per cent of the general population. As a result of the Drivers of Crime initiative, the number of young Maori coming to court decreased between 2008 and 2012 by approximately 30 per cent. However, the number of young Maori appearing in court is still four times that of non-Maori. The Working Group recommends to the Government to increase its efforts to prevent discrimination against Maori in the administration of justice. Special attention should be given to extending the protection measures under the Children, Young Persons and Their Families Act 1989 to include 17-year-olds, and young persons should not be held in police cells.

It is mentioned in the report that New Zealand has established an annual quota of 750 refugees referred by the United Nations High Commissioner for Refugees, as part of the New Zealand Refugee Quota Programme. In the 12 months to the end of June 2012, a total of 184 persons were recognized as Convention refugees (in accordance with the country's obligations under the United Nations Convention relating to the Status of Refugees, of 1951). In the same period, New Zealand received 303 new claims for refugee or protected person status. The Government makes efforts to facilitate the integration of these persons, moving people off welfare support and into employment. The Government also provides protection to certain persons under the

United Nations human rights conventions.

It is noted in the report that New Zealand does not have a mandatory detention policy for asylum seekers, refugees, or immigrants in an irregular situation. During its visit to the Mangere Refugee Resettlement Centre, the Working Group observed that the regime for persons who had requested protection status was harder than the regime for persons who had already obtained refugee status.

The report also examines the detention of persons with mental illness or intellectual disability for the purposes of compulsory care and treatment. The Working Group notes that the criteria for determining the risk of harm to self or others are not clear and that the law allows medical practitioners a wide margin of discretion to determine whether a person should undergo compulsory assessment and treatment.

Persons undergoing compulsory assessment or subject to compulsory treatment orders are often unrepresented, as they do not have sufficient financial means to seek legal advice and the availability of legal aid specifically for people with disabilities is limited.

Despite the existing safeguards under the legislation, the Working Group is concerned that there may be an underestimated number of cases of arbitrary detention of persons with mental illness. In a related context, the Working Group noted with concern the practice of seclusion in mental health services.

In its report, the Working Group recommends that deprivation of liberty of asylum seekers and immigrants in an irregular situation should continue to be used only as a measure of last resort and for the shortest possible time. New Zealand should clearly prohibit the transfer of asylum seekers to detention centres in third countries that do not meet international human rights standards or that have no procedures to promptly assess asylum seekers' claims.

The report also recommends to the New Zealand Government to continue its efforts to reduce the reoffending rate through adequate programmes, and to tackle the root causes of discrimination against Maori and Pacific Islanders in the criminal justice system. Every child should be separated from adults in detention. The Government should continue to extend measures to improve the mental-health care and treatment of people in detention. Lastly, the mandate of the country's Human Rights Commission should be extended to receive complaints of human rights violations relating to immigration laws, policies and practices and to report on them.

Annex

[English only]

Report of the Working Group on Arbitrary Detention on its visit to New Zealand (24 March to 7 April 2014)

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I. Introduction

1. The Working Group on Arbitrary Detention conducted an official country visit to New Zealand from 24 March to 7 April 2014, following an invitation from the Government. The delegation consisted of the Chair-Rapporteur, Mads Andenas (Norway), and a member of the Working Group, Roberto Garretón (Chile). They were accompanied by the Secretary of the Working Group and another Geneva-based staff member of the Office of the United Nations High Commissioner for Human Rights.

2. The Working Group thanks the Government of New Zealand for its invitation to visit the country. It appreciates the full support and cooperation extended by the New Zealand Government before and throughout the visit, as well as the valuable input provided by the civil society organizations, professors of law, members of the New Zealand Bar Association and medical doctors that it was able to meet.

II. Programme of the visit

3. The Working Group visited the cities of Wellington, Auckland, New Plymouth (Taranaki region) and Christchurch (Canterbury region). In all the cities that it visited, the Working Group met with officials of the various ministries and of local authorities, and with first-instance judges and prosecutors. The Working Group met with senior members of the executive and judicial branches of the State, including the Minister of Justice and officials of the Ministry, the Chief Justice of the Supreme Court, the Chief Judge of the District Court, the Deputy Solicitor-General, the Director of the Public Defence Service, officials of the Ministry of Foreign Affairs and Trade, representatives of Child, Youth and Family (Ministry of Social Development) and of Immigration New Zealand, officials of the Ministry of Health, the Ministry of Business, Innovation and Employment, the Department of Corrections, the New Zealand Police and the New Zealand Defence Force, and public prosecutors.

4. The Working Group also met with and consulted the national preventive mechanisms, which comprise the Human Rights Commission, the Office of the Children's Commissioner, the Independent Police Conduct Authority, the Inspector of Service Penal Establishments, and the Ombudsman, as well as members of the Mental Health Review Tribunal. In Auckland and New Plymouth, the Working Group also met with the district inspectors. The Working Group regrets, however, that it was unable to meet members of the legislature during its visit, due to the parliamentary recess.

5. The Working Group visited places where persons are deprived of their liberty in all the cities that it visited. The appendix to the present report provides a list of detention facilities that the Working Group visited. The Working Group thanks the Government of New Zealand for allowing it to visit the places of detention without restriction and conduct private and confidential interviews with detainees of its choice.

6. During the visit, the authorities expressed to the Working Group their commitment to take recommendations by United Nations human rights mechanisms into account.

III. Overview of the institutional and legal framework

A. Political and institutional system

7. New Zealand has a parliamentary system of government. The Sovereign, Queen Elizabeth II, is the Head of State and is represented by the Governor-General. The population of the country is approximately four and a half million.

8. New Zealand's constitutional foundations are based on the rule of law and on the principle of separation of powers, which ensures the independence of each of the three branches of the State, namely the legislature, the executive and the judiciary.

9. The Sovereign and the House of Representatives, the members of which are democratically elected for a three-year term, form the unicameral Parliament. Seven seats of the 120-member Parliament are reserved for representatives of the Maori population — the original inhabitants of New Zealand. The number of Maori seats in Parliament is proportional to the number of people on the Maori electoral roll.

10. The New Zealand Police are responsible for internal security. The Department of Corrections is an independent public sector department whose main responsibility is the management of the corrections system, which includes the Prison Service and the Probation Service.

11. The Supreme Court, composed of the Chief Justice and no fewer than four or more than five other judges appointed by the Governor-General, is the country's highest court. The Court of Appeal is the highest appellate court below the Supreme Court. It hears appeals from the High Court. The High Court hears appeals from lower courts and reviews administrative actions. Original jurisdiction lies in the High Court. There are also specialized courts, such as the Maori Land Court, the Maori Appellate Court, the Environment Court, the Employment Court, family courts and youth courts. Military jurisdiction encompasses the Court Martial and the Court Martial Appeal Court. The standing orders of the House of Representatives prohibit a Member of Parliament from "using offensive words" against a member of the judiciary. Judges are protected against salary reductions and politically motivated removal from office.

12. One of the essential foundations of the New Zealand system of government is the Treaty of Waitangi, which was signed between Maori chiefs and the British Crown in 1840. The Treaty granted the Crown the authority to govern in partnership with the Maori chiefs and guaranteed the right of Maori to self-determination. It also affirmed the right of non-Maori to reside in and to belong to New Zealand, and the rights of Maori on an equal footing as British subjects. The Treaty of Waitangi is the founding document of New Zealand as a nation, although is not a formal part of its domestic law.

13. There are a number of socioeconomic factors that place Maori at a disadvantage in fully realizing the promise of the Treaty in the modern system of government. Maori have the poorest education, health, welfare and justice outcomes in the country. During its visit, the Working Group received allegations of persistent bias against Maori at all levels of the criminal justice system. The rights of Maori have begun to be fully recognized over the past 40 years. The establishment of the Waitangi Tribunal in the 1970s was an important step in that direction, although its decisions are not binding.

14. New Zealand has in place a number of independent institutions established and mandated by legislation to monitor the protection of human rights. The Human Rights Commission, established in 1978, is an independent body that is mandated to, inter alia, advocate and promote respect for and appreciation of human rights in society. The Commission is the central national preventive mechanism that examines the conditions and

treatment in places of detention, as part of New Zealand's fulfilment of its obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

15. Complaints of discrimination may be resolved through the complaints mechanism of the Human Rights Commission, which includes mediation and other low-level dispute resolution mechanisms. If they fail or are inappropriate, complainants may take their case to the Human Rights Review Tribunal for adjudication. Decisions of the Human Rights Review Tribunal may be appealed to the High Court on questions of fact and law, and to the Court of Appeal on points of law.

16. Other national preventive mechanisms include:

(a) The Office of the Ombudsman, responsible to Parliament but independent of the Government, whose mandate is to investigate complaints against central and local government agencies. The role of the Ombudsman includes providing an external and independent review process for individual detainees' grievances, and carrying out investigations on their own initiative. As a national preventive mechanism, the Office is responsible for monitoring the treatment of persons detained in prisons, immigration detention facilities, health and disability places of detention (e.g. hospitals and secure care facilities), youth justice residences and care and protection residences;

(b) The Independent Police Conduct Authority, which is an independent Crown entity with a statutory mandate to investigate complaints against the police concerning misconduct, or neglect of duty, or concerning any police policy, practice or procedure. The Authority also investigates incidents of death or serious bodily harm involving the police. As a national preventive mechanism, the Authority is responsible for monitoring the treatment of persons detained in police cells or otherwise in the custody of the police;

(c) The Office of the Children's Commissioner, which is an independent Crown entity with a statutory mandate to monitor the services provided by Child, Youth and Family under the Children, Young Persons and Their Families Act 1989. As a national preventive mechanism, the Office is responsible for monitoring the treatment of children and young persons in youth justice residences and care and protection residences;

(d) The Inspector of Service Penal Establishments, who is an official appointed independently by the Chief Judge of the Court Martial of New Zealand. As a national preventive mechanism, the Inspector is designated to monitor the treatment of persons detained in service penal establishments.

17. The Human Rights Commission is currently developing the country's second national action plan for human rights, building on recommendations made during the recent universal periodic review of New Zealand. The Working Group was informed that the Commission expects to complete the plan by the middle of 2015. The Commission has sought engagement from civil society, business, and government agencies.

B. International human rights obligations

18. New Zealand is a party to all the main international human rights instruments, including the International Covenant on Civil and Political Rights. However, it is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, the Convention relating to the Status of Stateless Persons, the Optional Protocol to the Convention on the Rights of

the Child on a communications procedure or the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

19. New Zealand has made a declaration under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recognizing the competence of the Committee against Torture to receive communications from individuals subject to its jurisdiction.

20. During the visit, the authorities expressed to the Working Group their commitment to consider incorporating most of the international human rights instruments into its domestic legal procedures.

21. New Zealand has reservations to certain provisions of the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child pertaining to the rights of juveniles in the criminal justice system. It has reserved its right not to apply article 10 (2) (b) of the Covenant to separate accused juveniles from adults in cases where the shortage of suitable facilities makes the mixing of juveniles and adults unavoidable. Similarly, it has made a reservation to the requirement under article 10 (3) of the Covenant to separate juvenile offenders from adults in the penitentiary system "where the interests of other juveniles in an establishment require the removal of a particular juvenile offender or where mixing is considered to be of benefit to the persons concerned". New Zealand has reservations to the same effect to article 37 (c) of the Convention on the Rights of the Child.

22. New Zealand citizens may avail themselves of the complaint provisions under the individual communications procedures contained in both the First Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

C. Legal safeguards

23. Overall, New Zealand's legal framework concerning the right to liberty is well developed and is generally consistent with international human rights law and standards. New Zealand does not have a written constitution. The New Zealand Bill of Rights Act 1990 guarantees a range of civil and political rights, including the right not to be arbitrarily arrested or detained. It sets out in detail the rights of persons arrested or detained, which are in conformity with article 9 of the International Covenant on Civil and Political Rights, including the right to be informed of the reasons for his or her arrest and the right to be brought promptly before a judge.

24. The law provides for the right to a fair trial. It guarantees the presumption of innocence, the right to a jury trial, the right of appeal, and the right to present witnesses and evidence, to access government-held evidence and to question witnesses, as well as adequate time and facilities to prepare a defence. The judiciary, which is independent, enforces those rights.

25. A court-issued warrant is necessary in order to make an arrest, but the police may arrest a suspect without a warrant in cases of *flagrante delicto*. In any case, the police must inform arrested persons immediately of their legal rights and of the grounds for their arrest.

26. The Working Group observed that, in general, these legal requirements are complied with and arrested persons are informed of their rights. Arrested persons are immediately brought to a judge and may be held in police custody for a maximum of two nights if, for example, they were arrested on a Saturday afternoon, when the first possible court appearance is on Monday morning.

27. Pursuant to section 21 of the Bail Act 2000, a police officer has the discretion to grant bail to anyone who has been arrested without a warrant and has been charged with a non-serious offence. The bail issued by the police ends at the first court appearance. Court bails are granted unless there is a significant risk that the suspect would flee, tamper with witnesses or evidence or commit a crime while on bail.

28. Family members are granted prompt access to detainees. Detainees are allowed prompt access to a lawyer of their choice. If indigent, the detainee is allowed prompt access to a lawyer provided by the Government and paid for by the Ministry of Justice. Legal aid is available for criminal, family and civil proceedings and for Maori to appear at the Waitangi Tribunal. The Legal Services Amendment Act 2013 introduced changes to the way in which legal aid is managed.

29. Suspects are not detained incommunicado. Home detention in an appropriate, suitable and approved residence is commonly used as an alternative to prison for convicted non-violent offenders.

30. The right to challenge the lawfulness of detention is well entrenched. In addition to section 23 (1) (c) of the New Zealand Bill of Rights Act 1990 which provides for this right, the Habeas Corpus Act 2001 allows a detainee or any other person to apply for a writ of habeas corpus to the High Court in order to challenge the lawfulness of any form of detention, on an urgent basis.

31. The New Zealand Bill of Rights Act 1990 also stipulates the rights of persons charged with an offence at the pretrial stage and in the determination of the charge. These rights mirror the minimum guarantees set out in article 14 of the International Covenant on Civil and Political Rights, such as the rights to be informed promptly and in detail about the nature and cause of the charge against them, to receive legal assistance, and to be tried without undue delay. In addition, the Act explicitly provides for "the right to have the free assistance of an interpreter" if necessary. The Act, as well as other domestic legislation, provides the guarantees set out in article 14 of the Covenant.

32. The Human Rights Act 1993 prohibits discrimination on the grounds of sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origin, disability (including illness), age, political opinion, employment status, family status, and sexual orientation. It also prescribes the structure and mandate of the country's Human Rights Commission.

33. People charged with an offence punishable by imprisonment of two years or more have the right to trial by a jury of 12 persons. Prosecutors and defence lawyers ensure that persons of different backgrounds are adequately represented on the jury. The courts pay for all interpreting and translation provided.

IV. Findings

A. Positive aspects

34. The Working Group observed that police officers inform arrested persons of the grounds for their arrest and their legal rights immediately after their apprehension, in accordance with the New Zealand Bill of Rights Act 1990. In application of the principle that a person must be detained for the shortest possible time, the police have the authority to release a person on bail until the first court appearance in the case of minor offences. The New Zealand Police maintains the National Intelligence Application, a secure database that registers all detentions. Registration upon entry in police stations, internal movements and

departures and subsequent transfers to other places of detention are recorded electronically in an instantaneous and transparent fashion.

35. The Working Group observed in its interviews in private with detainees that detainees are promptly brought before a judge for determination of the legality of their detention. Detainees have the right to initiate habeas corpus proceedings to challenge the lawfulness of their detention, and in the case of unlawful detention, victims have the right to claim and obtain compensation.

36. The Working Group also observed how the due process rights of accused persons are respected, including the right to be informed promptly of the charges brought against them, the right to legal counsel, the presumption of innocence, and the right not to be compelled to plead guilty or to testify against themselves.

37. The Working Group further observed how prison facilities generally comply with international standards as regards comfort, hygiene and cleanliness, the provision of adequate food, access to medical care and the availability of recreational activities.

38. The Government permits visits to prisons by independent human rights observers. Independent visits to places of detention are not subject to administrative discretion but rather are guaranteed by law. Transgender inmates can serve their sentences in a prison for their identified gender. The Government is trying to reduce the level of reoffending among female inmates by setting up preventative programmes, and mother-baby feeding facilities, and by enhancing opportunities for family visits. Children aged up to 9 months or 2 years (depending on the prison) are allowed to live with their mothers in prison.

39. The Working Group observed, as a best practice, that the courts pay for all interpreting and translation delivered to them, in accordance with the requirement in domestic legislation for them to do so. Another positive aspect is that all correction officers have received suicide awareness training. In addition, the New Zealand Police requires its officers to demonstrate they have the necessary knowledge and skills to manage incidents involving mental health consumers and is developing e-learning modules that will support the police in recognizing, engaging with and responding to people experiencing mental distress. One of those modules specifically addresses suicide.

40. The police's Adult Diversion Scheme provides for the use of restorative justice as a matter of police practice. Restorative justice is available if the victim in an individual case consents to a restorative justice meeting. Restorative justice is available at various stages in the criminal justice system, including in family group conferences for young people, prior to sentencing, following a guilty plea, and after sentencing. Restorative justice gives the victim the opportunity to meet the offender face to face; the parties understand the consequences of their actions and take responsibility for them.

B. Preventive detention, public protection orders and extended supervision orders

41. Preventive detention is an indeterminate jail sentence for offenders who pose "a significant and ongoing risk" to public safety. Section 87 of the Sentencing Act 2002 gives the High Court the power to impose a sentence of preventive detention where a person over 18 years of age at the time of committing a qualifying sexual or violent offence is convicted of that crime and the court is satisfied that the person is likely to commit another qualifying sexual or violent offence if he or she is released at the expiry date of the sentence. Courts are allowed to fix an appropriate non-review period of not less than five years; after that period, the offender is entitled to regular reviews of the preventive sentence.

42. Preventive detention is considered a last resort for violent offenders and sex offenders. At time of the Working Group's visit, about 280 inmates were serving a preventive sentence.

43. Public protection orders allow the authorities to recall a person to prison once his sentence is finished if he is at high risk of reoffending. They were designed to take account of offenders who were sentenced before preventive detention was introduced. Individuals subject to public protection orders are required to live in a secure property on prison grounds that is separate from the main prison buildings. Such orders only apply, in practice, to a very small number of people.

44. Extended supervision orders can be issued by the courts if a child sex offender is still deemed high-risk at the end of his sentence. Special conditions, such as Global Positioning System (GPS) monitoring for up to 10 years, are set by parole boards once serious offenders have been released into the community. They have a 10-year expiry date. During the Working Group's visit, extended supervision orders were being applied to about 225 ex-prisoners. Officials explained to the Working Group that extended supervision orders had shown over the past ten years that they were an effective tool in protecting both the community and ex-prisoners.

45. The Working Group has particular concerns about the wider availability of preventive detention since the enactment of the Sentencing Act 2002, about extended supervision orders under the Parole Act 2002, about the options for intellectually disabled offenders in the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 and about the Public Safety (Public Protection Orders) Bill.

46. The Working Group has noted the arguments made during the parliamentary debate on the Public Safety (Public Protection Orders) Bill, as well as the observations made in two submissions to the Justice and Electoral Committee, in support of the view that the Public Safety (Public Protection Orders) Bill is not in compliance with international law, as well as the observations in the regulatory impact statement by the Department of Corrections and in the submissions by the Law Society and the Human Rights Commission. It has also noted the cautious balancing by the Attorney-General in his statement, and the robust parliamentary discussion where views differed but everyone wanted to keep within international obligations.

47. The Human Rights Committee and the Working Group have clarified the requirements under international law, which can be restated as follows:

(a) When a criminal sentence includes a punitive period followed by a preventive period, once the punitive term of imprisonment has been served, in order to avoid arbitrariness, the preventive detention must be justified by compelling reasons, and regular periodic reviews by an independent body must be assured to determine whether the detention continues to be justified;

(b) The treatment of prisoners held in preventive detention must be distinct from the treatment of convicted prisoners serving a punitive sentence and must be aimed at the detainees' rehabilitation and reintegration into society. If a prisoner has served the sentence imposed at the time of conviction, international law prohibits an equivalent detention under the label of civil preventive detention. The grounds for detention must be defined with sufficient precision in order to avoid overly broad or arbitrary application.

48. The Public Safety (Public Protection Orders) Act 2014 came into force on 12 December 2014. The Act seeks to protect the public from almost certain harm by a small number of serious sexual or violent offenders. It does so by creating a new legislative regime to allow the High Court to make a public protection order. The Working Group considers that preventive detention following a punitive term of imprisonment must be

justified by compelling reasons. The grounds for preventive detention must be defined with sufficient precision in order to avoid overly broad or arbitrary application. Regular periodic reviews by an independent body must be assured to determine whether it continues to be justified. The treatment of prisoners held in preventive detention must be distinct from the treatment of convicted prisoners serving a punitive sentence and must be aimed at the detainees' rehabilitation and reintegration into society.

C. Pretrial detention and the detention of convicted persons

49. There are currently 20 prisons under the remit of the Department of Corrections: 17 men's prisons and three women's prisons. The total number of persons detained in prisons in New Zealand at time of the Working Group's visit was 8,500 and the penitentiary system had capacity for 9,549. Of those persons, 19 per cent were pretrial detainees, 6 per cent were female, and 4 per cent were juveniles between 15 and 19 years of age. In 2013, the average time in pretrial detention was 62 days. At the time of the Working Group's visit to Auckland Prison, there were 623 prisoners; the prison has the capacity to hold 681.

50. The main types of offences for which prisoners had been convicted were violent offences (40.6 per cent); sexual offences (20.3 per cent); dishonesty (18.3 per cent) and drugs and antisocial offences (9.9 per cent).

51. New Zealand is imprisoning 183 persons per 100,000 inhabitants. The prison population has been steadily growing for most of the last 30 years. Pretrial detainees are housed separately from convicted prisoners. The country has a high rate of reoffending. Of those reoffending, 60 per cent were unemployed prior to their imprisonment and 65 per cent have an alcohol or drug problem.

52. The Sentencing Act 2002 is the principal legislation governing the sentencing regime. It provides for alternative types of detention to incarceration, such as house arrest and community detention. The Corrections Act 2004 sets out a legal framework that covers the administration of custodial sentences and remands, community-based sentences, home detention and parole. The Parole Act 2002 sets out an elaborate system of early release from detention.

53. Concern was expressed during the Working Group's visit that the Parole Amendment Bill of 2012 unnecessarily reduces the number of parole hearings and increases the length of time that the offender spends in prison. Offenders eligible for parole hearings have opportunities for such hearings every two years under the Amendment Bill, as opposed to every year under the Parole Act 2002.

D. Detention of Maori

54. Persons of Maori descent comprise 51.4 per cent of the prison population, while Maori comprise approximately 15 per cent of the general population. Sixty-five per cent of the female prison population are of Maori descent. The overrepresentation of Maori in the prison population poses a significant challenge, as recognized in New Zealand's report for the Human Rights Council's universal periodic review in 2014.

55. The Working Group has been able to study the Drivers of Crime initiative. The authorities have pointed out that, as a result of this initiative, the number of young Maori coming to court decreased between 2008 and 2012 by approximately 30 per cent, but the Government has acknowledged that the rate of young Maori appearing in court is still four

times that of non-Maori. Maori account for 54 per cent of all young people appearing at the Youth Court and 71 per cent of child offenders appearing at the Family Court.

56. The Working Group has also been able to study the implementation of the Youth Crime Action Plan, which focuses on reducing apprehensions, prosecutions and reoffending, particularly for Maori. The Working Group also discussed with authorities of the New Zealand Police the need for, and work on, developing a decision-making model to address inconsistencies in the way in which apprehensions of children and young people are resolved, and was able to pursue this in its visits to police stations and places of detention. The Working Group has also studied how traditional and Maori-centred approaches and solutions are sought by the police and the wider criminal justice system in a number of ways.

57. The Working Group recalls that the Committee on the Elimination of Racial Discrimination, the Human Rights Committee and, in two reports, the Special Rapporteur on the rights of indigenous peoples have recommended that New Zealand increase its efforts to prevent discrimination against Maori in the administration of justice. Particular concerns have been raised in relation to the overrepresentation of Maori women.

58. The Government has sought to reduce Maori reoffending through special programmes to integrate Maori cultural values into the prison rehabilitation programmes. Five Maori focus units, involving approximately 300 inmates, have integrated Maori values into the prison rehabilitation programmes.

59. Another positive development is the work by the Department of Corrections and the New Zealand Police to reduce reoffending, prevent discrimination, raise cultural awareness among law enforcement and corrections staff, and improve consistency in decision-making by reducing subjective judgements susceptible to bias. The Working Group is concerned about the extent to which such inconsistencies and bias as pointed out by the Government in its universal periodic review report is systemic, and about the degree of such systemic bias.

60. With regard to the extent, the Working Group found indications of bias at all levels of the criminal justice process: the investigative stage, with searches and apprehension; police or court bail; extended custody in remand; all aspects of prosecution and the court process, including sentencing; disciplinary decisions while in prison; and the parole process, including the sanctions for breach of parole conditions. Bias could typically follow where some aspect of a person's social status or the presence of a disability was treated as an aggravating or mitigating factor.

61. The Working Group considers that special attention should be given to the disproportionately negative impacts on Maori of criminal justice legislation that extends sentences or reduces probation or parole. The current initiatives of the Department of Corrections are oriented towards reducing reoffending by 25 per cent by 2017. In the 2014–2015 period, the Department has helped 1,370 young Maori offenders to integrate positively in their communities. In addition, the New Zealand Police has adopted a strategy to reduce Maori offending, reoffending and victimization.

62. The Working Group notes that the imprisonment rate of Maori and Pacific Islanders is disproportionately higher than that of other ethnic groups. Pacific Islanders, who make up 6.5 per cent of the general population of the country, experience societal discrimination problems quite similar to those experienced by Maori. Pacific Islanders account for approximately 10 per cent of inmates.

E. Detention of children and young persons

63. Juvenile detainees come under the jurisdiction of Child, Youth and Family (Ministry of Social Development). A notable gap remains in relation to the legislative protection available to children aged 17 years. They are considered to be adults as far as their penal responsibility is concerned, are tried as adults, and if convicted, are sent to adult prisons. However, male prisoners aged 17 or under are housed in separate units from the general prison population.

64. There is no separate unit for female prisoners aged 17 years or under because there are generally fewer than five at any time throughout New Zealand. The recommendations by the Committee on the Rights of the Child and the Committee against Torture to extend the protection measures under the Children, Young Persons and Their Families Act 1989 to include 17-year-olds have not been followed. The Working Group also heard evidence on the detention of young persons in police cells.

65. The Working Group was informed that New Zealand is currently reviewing its practices relating to the separation of young people deprived of their liberty from adults, as part of an ongoing review of its reservation to article 37 (c) of the Convention on the Rights of the Child. The Government reported that the Department of Corrections had been in compliance with article 37 (c) of the Convention since 2006.

66. The Working Group received complaints that young people were often held in police custody for longer than adults, because of the lack of alternative secure facilities in which to hold them. The Government reported that during the 2013/14 financial year, 64 young people were placed in police cells for more than 24 hours.

F. Detention of asylum seekers and immigrants in an irregular situation

67. New Zealand was one of the first States to accede to the United Nations Convention relating to the Status of Refugees, of 1951. The Government has established an annual quota of 750 (± 10 per cent) refugees and their immediate dependent family members referred by the United Nations High Commissioner for Refugees, as part of the New Zealand Refugee Quota Programme. In the 12 months to the end of June 2012, a total of 184 people were recognized as Convention refugees. At the same time, New Zealand received 303 new claims for refugee or protected person status. The Government makes efforts to facilitate their integration into New Zealand, moving them off welfare support and into employment. The Government also provides protection to certain persons under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and under the International Covenant on Civil and Political Rights.

68. The Working Group notes that New Zealand does not have a mandatory detention policy for asylum seekers, refugees, or immigrants in an irregular situation. Judges have the authority to order the continued detention of immigrants in an irregular situation in cases where the immigrants' own actions are preventing their deportation. The Immigration Amendment Act 2013 introduced a provision that requires the mandatory detention of asylum seekers who arrive in New Zealand by boat as part of a "mass group" containing 30 or more persons. These persons may be detained for an initial period of six months on a group warrant, which then is renewable at 28-day intervals.

69. In 2002, the High Court ruled that detained asylum seekers had the right to seek release on bail. However, the Court of Appeal overturned the High Court decision and ruled that the immigration service had the power to detain refugee status claimants under certain circumstances.

70. Detained asylum claimants and undocumented persons who have been refused entry into the country (turnaround cases) have a right to habeas corpus to challenge the need for their detention.

71. It is of concern to the Working Group that New Zealand is using the prison system to detain irregular migrants and asylum seekers. They are being held in Waikeria Prison, Arohata Prison for Women and Mt. Eden Corrections Facility. These prisons, and police stations, do not provide separate facilities for immigrants in an irregular situation or asylum seekers.

72. The Government has announced that it will, if requested, take 150 refugees from Australia and that it might, subject to enabling legislation, transfer asylum seekers who arrive by boat in the "processing centres" in Nauru and Papua New Guinea, where persons are held in breach of international law. No formal arrangement has been entered into between the Governments of those two countries regarding the announcement. The Working Group recalls that States have obligations not to transfer individuals to camps where they are held in violation of international law.

73. On 29 March 2014, the Working Group visited the Mangere Refugee Resettlement Centre, which has capacity for 150 persons. At the time of the Working Group's visit, the Centre was accommodating a refugee quota intake of 138 persons who were participating in the six-week reception programme and undergoing health assessments, as well as eight asylum seekers (four of whom had been detained under the Immigration Act 2009 and four of whom were on conditional release to the Centre). Quota refugees who are accommodated at the Centre are New Zealand residents and as such can freely leave the Centre without seeking permission. The regime for persons who had requested protection status was harder than the regime for persons who had already obtained refugee status. Both categories of people may leave the Centre, but those who have requested protection status must request authorization. Some institutions, such as the Auckland University of Technology, are helping the Centre with programmes for refugees.

74. The Working Group emphasizes that detention of immigrants in an irregular situation and asylum seekers should normally be avoided and should only be a measure of last resort. Children and other vulnerable persons should not be detained pending resolution of their claims. Alternatives to detention should always be given preference. International evidence suggests that humane and cost-effective mechanisms such as community release programmes can be very successful.

75. Immigration New Zealand usually facilitates access to legal aid and interpreting services. Asylum seekers can access free interpreting and translation through the legal aid system. However, the Working Group received information about cases where asylum seekers and irregular migrants had not been provided with legal representation and interpreting and had been detained in police stations or remand prisons.

76. The Working Group considers that the Immigration Amendment Act 2013 should be interpreted so as not to breach New Zealand's domestic and international obligations under the Convention relating to the Status of Refugees, of 1951. New Zealand prohibits the transfer of asylum seekers to detention centres in third countries which do not meet international human rights standards or which have no procedures to promptly assess an asylum claim. Any use by New Zealand of offshore processing centres would require legislative amendment.

77. The Working Group adds its voice to the 2010 recommendation of the Human Rights Committee requesting the Government to extend the mandate of the Human Rights Commission so that it can receive complaints of human rights violations relating to immigration laws, policies and practices, and report on them.

G. Detention of persons in health facilities

78. In New Zealand, persons with mental illness or intellectual disabilities may be detained for the purposes of compulsory care and treatment. The Mental Health (Compulsory Assessment and Treatment) Act 1992 allows the detention of persons who have been assessed as having a "mental disorder", which is, in essence, defined as "an abnormal state of mind" that "poses a serious danger to the health or safety of that person or of others" or "seriously diminishes the capacity of that person to take care of himself or herself". It sets out the multi-layered processes of a compulsory assessment, whereby a person may be subject to compulsory assessment for 5 days in the first period and for a further 14 days in the second period. While the trigger for detention is not mental illness but rather the risk of harm to self or others, the Working Group noted that the criteria for determining the risk are not clear and that the Act allows medical practitioners a wide margin of discretion to determine whether a person should undergo compulsory assessment and treatment.

79. At all stages of compulsory assessment, the Act merely requires a medical practitioner's opinion that there are reasonable grounds for believing that a person may be suffering from a mental disorder or is mentally disordered. In that regard, the Working Group was informed of some cases where persons with mild mental health issues had been subjected to compulsory assessments against their will, without substantial evidence that they posed a risk to themselves or to others. At the end of the second period of assessment and treatment, the clinician responsible must apply to the Family Court for a compulsory treatment order if he or she is of the opinion that the person is still mentally disordered. The Family Court tends to heavily rely on the reports of the clinician responsible and one other health professional, who is most often a registered mental health nurse, in making the orders, as it does not have expertise in the matter of mental health. In 2012, 4,328 applications for compulsory treatment orders were granted, which amounts to 89 per cent of the total number of applications.

80. What emerged from examining the implementation of this legislative framework is that in practice, compulsory assessments and treatment orders are based largely on clinical decision-making processes and it is difficult for persons with "compulsory" status to effectively challenge such decision-making. While the Act provides for various safeguards, those safeguards are often not respected or effectively implemented, thereby creating a gap between the law and the practice. Persons undergoing compulsory assessment or subject to compulsory treatment orders are often unrepresented, as they do not have sufficient financial means to seek legal advice and the availability of legal aid specifically for persons with disabilities is limited. Section 76 of the Act requires that a review take place no later than three months from the date on which the compulsory treatment order is made and at six-monthly intervals thereafter. However, the Working Group was informed of cases where regular clinical reviews of persons subject to compulsory treatment orders had not been conducted as required under section 76 of the Act.

81. The Working Group met with district inspectors, whose role is akin to that of an ombudsman and whose core functions include providing information to persons with "compulsory" status, checking documentation, conducting visits to and inspections of mental health facilities, and investigating complaints. The independence and accessibility of district inspectors have been raised as issues of concern. While district inspectors are supposed to be detached from mental health services, they are often perceived as not being completely independent from clinical decision-making processes, especially when they have worked in a small community for a long period of time. Also, patients and their family members may not be sufficiently aware of the role and functions of the district inspectors to submit complaints to them.

82. The Mental Health Review Tribunal, which is tasked with determining whether or not persons subject to compulsory treatment orders are fit to be released from that status, has also not been perceived as an impartial, accessible and effective venue for challenging the legality of detention that is based on compulsory treatment orders. The hearings of the Tribunal tend to be very brief and to be held at the facility where the person concerned is being treated. In the vast majority of cases, the Tribunal accepts the judgement of the clinician responsible. Between 1 July 2012 and 30 June 2013, there were only 5 cases out of 102 in which the Tribunal declared that persons with "compulsory" status were fit to be released from that status. That represents 5 per cent of the applications. The average success rate based on the data from 2005 and 2009 is around 6 per cent.

83. Despite the existing safeguards in the legislation, the Working Group is concerned that there may be an underestimated number of cases of arbitrary detention of persons with mental illness. In a related context, the Working Group notes with concern the widespread practice of seclusion in mental health services. The Government reported that, in 2009, stricter standards on the use of seclusion and restraint had been introduced and that, since then, the number of persons secluded had decreased by 29 per cent.

84. The Mental Health (Compulsory Assessment and Treatment) Act 1992 also applies to the detention of "special patients", who include, among others, defendants found unfit to stand trial or acquitted on account of insanity, and mentally disordered persons who are convicted and sentenced to a term of imprisonment, as set out in the Criminal Procedure (Mentally Impaired Persons) Act 2003. Furthermore, persons with intellectual disabilities who have criminally offended and who pose an undue risk to themselves or to others may also be subject to detention as "special care recipients", pursuant to the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.

85. The standard of proof required is the balance of probabilities. Under the Criminal Procedure (Mentally Impaired Persons) Act 2003, the prerequisite for a court to make a finding about a defendant's fitness to stand trial is that, on the balance of probabilities, he or she committed the offence. On that basis, the court may decide that the defendant is unfit to stand trial on the balance of probabilities and may order his or her detention in a hospital or a secure facility, taking into account all the circumstances of the case and the evidence of one or more health assessors as to the necessity of such detention.

86. The Working Group is also concerned about the lack of safeguards in practice for persons with a mental impairment or intellectual disability. At the initial point, where persons with a mental impairment or intellectual disability first come into conflict with the law, they may be questioned by the police without the presence of legal counsel. They often do not benefit from effective legal representation throughout the judicial processes, as they may not have access to legal aid or their legal aid lawyers may not have a comprehensive understanding of their disabilities. Once "special patients" or "special care recipients" are made subject to detention, they could be held in a hospital or a secure facility for a long period of time, beyond the maximum possible term of their sentence in some cases, given the inadequate implementation of the legislative safeguards. The Government pointed out that patients under compulsory treatment orders always have access to district inspectors, who are lawyers responsible for ensuring that patients' rights under the Mental Health Act are upheld.

87. Another area in which protection gaps exist is the detention of older persons in care settings. The Working Group met older persons, some of them suffering from dementia, who were deprived of their liberty in rest homes and secure facilities. Although there is a high level of awareness in New Zealand of the challenges that care of aged persons and persons with dementia involves, there is no legal framework specifically regulating the detention of older persons suffering from dementia or other disabilities that affect their capacity to consent. The Protection of Personal and Property Rights Act 1988 and the Code

of Health and Disability Services Consumers' Rights 1996 are the only pieces of legislation that are loosely relevant in this context.

88. The Protection of Personal and Property Rights Act 1988 provides for procedures to appoint a welfare guardian for those who lack legal capacity and for court scrutiny of decisions made by such guardians. In cases where persons do not have legal capacity and there is no person entitled to consent on their behalf, the Code of Health and Disability Services Consumers' Rights 1996 provides that services may be provided where it is in the best interests of the consumer and where it would be consistent with the informed choice that the consumer would make if he or she were competent, or with the views of other suitable persons who are interested in the welfare of the consumer. It is clear that these laws do not set out sufficiently detailed processes by which persons lacking legal capacity may become subject to detention.

H. Remedies for victims of arbitrary detention

89. Victims of arbitrary detention have the right to legal remedies under the Prisoners' and Victims' Claims Act 2005 and the subsequent amending legislation. The 2005 Act restricts awards of compensation sought by specified human rights or tort claims made by a person under the State's control or supervision. It also provides a simplified process for the making and determining of claims that a prisoner, as a victim, may make for compensation required to be paid in respect of specified human rights or tort claims made by the prisoner. When the 2005 Act was adopted, the Select Committee emphasized that the Act fully complied with international obligations and the Bill of Rights. Legal advice provided by the Crown Law Office confirmed that the bill as drafted was not in breach of either. However the Attorney-General, in his report of 2011 on the 2011 Amendment Bill, which would have prevented any receipt of compensation, concluded that it was inconsistent with the right to an effective remedy for breach of the Bill of Rights and also inconsistent with the country's international obligations, citing the concerns of the Committee against Torture and the Human Rights Committee.

90. In the 2007 case of *Taunoa and Ors v. The Attorney-General and Anor*, the Supreme Court awarded damages for unacceptable prison conditions found to be in breach of the Bill of Rights and international law obligations. The judgements in that case leave certain questions unanswered, including with regard to the level of compensation, where the Working Group agrees with the judgement of Chief Justice Elias when she authoritatively restates and applies international law in favour of upholding the judgement of the Court of Appeal.

91. The Working Group is seriously concerned about the legal advice presented to Parliament about New Zealand's international law obligations. In the Working Group's opinion, the 2005 Act and the subsequent amending legislation extending it are in breach of the country's international law obligations. The right to an effective remedy, as set out not only by the Attorney-General in his 2011 report but also by Chief Justice Elias in the *Taunoa* case, requires a renewed review of the legislation in order to ensure compliance with the right to an effective remedy and the prohibition of retroactivity.

V. Conclusions

92. **The Working Group recognizes that, in general terms, New Zealand has an outstanding human rights record, which nevertheless presents some areas of concern, particularly in regard to children's rights, domestic abuse, and societal problems for Maori and Pacific Islanders. High levels of inequality remain, in the areas of**

education, employment, income and health. The law and the judiciary provide effective means of addressing instances of abuse. The New Zealand Bill of Rights Act 1990 contains provisions against arbitrary deprivation of liberty, retroactive penalties and double jeopardy.

93. The Working Group is concerned at the overrepresentation of Maori and Pacific Islanders in the criminal justice system. The Working Group found indications of bias at all levels of the criminal justice process: the investigative stage, with searches and apprehension; police or court bail; extended custody in remand; all aspects of prosecution and the court process, including sentencing; and the parole process, including the sanctions for breach of parole conditions.

94. The Working Group has observed in its interviews in private with detainees that their rights are respected at the time of their arrest; this includes the right to be informed promptly of the charges brought against them, the presumption of innocence, the right not to be compelled to plead guilty or to testify against themselves, and the right to legal counsel. Due process rights are generally respected.

95. Domestic law permits prison visits by independent human rights observers. Transgender inmates can serve their sentences in a prison for their identified gender. Courts pay for all interpretation and translation services. Prison facilities comply with international standards.

96. The Working Group has particular concerns about the wider availability of preventive detention since the enactment of the Sentencing Act 2002, about extended supervision orders under the Parole Act 2002, about the options for intellectually disabled offenders in the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 and about the Public Safety (Public Protection Orders) Bill.

97. The Working Group notes that the Public Safety (Public Protection Orders) Act seems not to be in compliance with international law. Preventive detention must be justified by compelling reasons, and regular periodic reviews by an independent body must be assured to determine whether the detention continues to be justified. The treatment of prisoners held in preventive detention must be distinct from the treatment of convicted prisoners serving a punitive sentence and must be aimed at the detainees' rehabilitation and reintegration into society.

98. A notable gap remains in relation to the legislative protection available to children aged 17 years. They are considered to be adults as far as their penal responsibility is concerned, are tried as adults, and if convicted, are sent to adult prisons.

99. New Zealand does not have a mandatory detention policy for asylum seekers, refugees, or immigrants in an irregular situation. Detained asylum claimants and undocumented persons who have been refused entry into the country have a right to habeas corpus to challenge the need for their detention. The Government is using the prison system to detain immigrants in an irregular situation and asylum seekers.

100. The criteria established by the Mental Health (Compulsory Assessment and Treatment) Act 1992 for determining the risk of harm to self or others are not clear. The Act allows medical practitioners a wide margin of discretion to determine whether a person should undergo compulsory treatment. Compulsory assessments and treatment orders are based largely on clinical decision-making processes.

101. The Working Group notes with concern the widespread practice of seclusion in mental health services. Another area in which protection gaps exist is the reclusion of older persons, particularly those suffering from dementia, in secure facilities and rest homes.

102. The Working Group recognizes that the problems described in the present report require cross-cutting and collective action and should mobilize government authorities, representatives of civil society and other stakeholders.

VI. Recommendations

103. The Working Group encourages the Government to ensure that the positive legislative and administrative developments described in the present report are accompanied by effective implementation measures that are in strict compliance with international human rights principles and standards.

104. The Working Group encourages the Government to continue in its efforts to ensure that its institutional and legal framework regarding deprivation of liberty fully conforms to the human rights standards enshrined in international human rights standards and in its legislation.

105. On the basis of its findings, the Working Group makes the following recommendations to the Government:

(a) The Immigration Amendment Act 2013 should always be interpreted so as not to breach New Zealand's international and domestic obligations under the United Nations Convention relating to the Status of Refugees, of 1951;

(b) New Zealand should clearly prohibit the transfer of asylum seekers to detention centres in third countries that do not meet international human rights standards or that have no procedures to promptly assess asylum seekers' claims;

(c) Deprivation of liberty of asylum seekers, refugees, and immigrants in an irregular situation should continue to be used only as a measure of last resort and for the shortest possible time;

(d) The Government should continue its efforts to reduce the reoffending rate through adequate programmes;

(e) The Government should intensify its efforts to tackle the root causes of discrimination against Maori and Pacific Islanders in the criminal justice system, and particularly to reduce the high rates of incarceration among Maori, especially Maori women;

(f) New Zealand should strengthen its efforts to develop a broad range of alternatives measures to detention for children in conflict with the law;

(g) Any child, male or female, should be separate from adults in detention;

(h) The mandate of the New Zealand Human Rights Commission should be extended to receive complaints of human rights violations relating to immigration laws, policies and practices and to report on them;

(i) The Government should continue to extend measures to improve the mental-health care and treatment of people in detention;

(j) Policies should be implemented to encourage and support Maori to enter the legal profession and for the appointment of further Maori judges;

(k) The concept of a "young person" should be redefined for the purposes of the youth justice system as anyone below the age of 18;

(l) The authorities should ensure that no asylum seeker or immigrant in an irregular situation is detained in correctional facilities or other places of detention together with convicted prisoners;

(m) New Zealand should ensure the full implementation of juvenile justice standards and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) as well as the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

(n) The Working Group recommends that a review be undertaken of the degree of inconsistencies and systemic bias against Maori at all the different levels of the criminal justice system, including the possible impact of recent legislative reforms.

(o) The Working Group has studied the initiatives and review by the Department of Corrections and the New Zealand Police, particularly the "Turning the Tides" initiative. It recommends that the review take the work of the police further, extending it to other areas of the criminal justice system. The Working Group also considers that the search needs to continue for creative and integrated solutions to the root causes that lead to disproportionate incarceration rates of the Maori population;

(p) The Working Group requests New Zealand to fully comply with the requirements of the Convention on the Rights of the Child and to withdraw its reservations.

Appendix

Detention facilities visited

Wellington

- Central Regional Forensic Mental Health Service

Auckland

- Mt. Eden Corrections Facility
- Auckland Prison
- Auckland Central Police Station
- Mangere Refugee Resettlement Centre
- Auckland Airport immigration facilities
- Middlemore Hospital
- Mason Clinic

New Plymouth

- New Plymouth Remand Centre
- High Court holding cell
- New Plymouth Police Station
- Taranaki Base Hospital

Christchurch

- Christchurch Women's Prison
- Rolleston Prison
- Burnham Military Camp
- Te Puna Wai ō Tuhinapo – Youth Justice Residence